

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

SPHERE 3D CORP.,

Plaintiff and Counterclaim-Defendant,

v.

GRYPHON DIGITAL MINING, INC.,

Defendant and Counterclaim-Plaintiff

Civil Action No. 1:23-cv-02954-PK

DECLARATION OF DENNIS H. TRACEY, III IN SUPPORT OF GRYPHON DIGITAL MINING, INC.’S MOTION FOR ISSUANCE OF LETTERS ROGATORY FOR INTERNATIONAL JUDICIAL ASSISTANCE TO TAKE TESTIMONY OVERSEAS

Pursuant to 28 U.S.C. § 1746, I, Dennis H. Tracey, III, hereby declare under penalty of perjury that the following is true to the best of my knowledge and belief:

1. I am a member of the bar of this Court and a partner with the law firm Hogan Lovells US LLP, counsel for Defendant and Counterclaim-Plaintiff Gryphon Digital Mining, Inc. (“Gryphon”) in the above-captioned action. I submit this declaration in support of Gryphon’s Unopposed Motion for Issuance of Letters Rogatory for International Judicial Assistance to Take Testimony Overseas.

2. Attached as Exhibit A is Gryphon’s Letter Rogatory for International Judicial Assistance Seeking Testimony from Mr. Peter Tassiopoulos, dated August 29, 2024.

3. Attached as Exhibit B is Gryphon’s Letter Rogatory for International Judicial Assistance Seeking Testimony from Mr. Mark Edward Valentine, dated August 29, 2024.

4. Attached as Exhibit C is a true and correct copy of a Press Release issued by Sphere 3D Corp., Gryphon and Sphere Announce MSA and Agreement to Purchase Additional Carbon Offset Credits Bringing Total to Half a Million Credits, dated August 20, 2021.

5. Attached as Exhibit D is a true and correct copy of a Press Release issued by Sphere 3D Corp, Sphere 3D Merger Target Gryphon, Launches First Batch of its 7,200 S19j Miners, dated September 16, 2021.

6. Attached as Exhibit E is a true and correct copy of Press Release issued by Sphere 3D Corp., Sphere 3D and Gryphon Secure Largest Single Hosting Services Deal in Core Scientific's History, dated October 13, 2021.

7. Attached as Exhibit F is a true and correct copy of Sphere 3D Corp.'s Responses and Objections, dated June 6, 2024, to Gryphon Digital Mining, Inc.'s Second Set of Requests for Production of Documents.

Dated: August 29, 2024
New York, New York

HOGAN LOVELLS US LLP

/s/ Dennis H. Tracey, III

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